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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/987,689      | 11/15/2001  | Roni Zvuloni         | 01/21569            | 7305             |

7590 10/18/2004

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EXAMINER

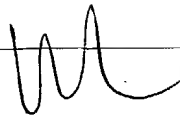
TYLER, CHERYL JACKSON

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3746

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/987,689 | <b>Applicant(s)</b><br>ZVULONI, RONI  |  |
|                              | <b>Examiner</b><br>Cheryl J. Tyler   | <b>Art Unit</b><br>3746   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-56 is/are pending in the application.
- 4a) Of the above claim(s) 34-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **FINAL ACTION**

### ***Claim Objections***

1. Claim 47 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 47 depends from cancelled claim 4. However, it is presumed that the applicants intended to have the claim depend from new claim 45. Since claim 45 already includes a fluid pressurizer (see claim 45, line 5), it is not clear as to what this claim was trying to further limit.
2. Claim 56 is objected to because of the following informalities: the recitation of "utiliization" (claim 56, line 3) is presumed to be --utilization--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 45-46, 48-49, 52-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Perrine et al. (4,515,516). Perrine et al. teach a first closed cylinder 10 (corresponding to the claimed first refillable supply unit) and a second closed cylinder 11 (corresponding to the claimed second refillable supply unit); a gas inlet port 30

(corresponding to the claimed first input portal) that supplies gas to the first closed cylinder at a first pressure; a fluid pressurizer; port 24 (corresponding to the second input portal); and gas outlet port 35 (corresponding to the claimed supply of a first gas to gas utilization application - see column 4, line 55-57). As illustrated in Figures 1 and 2, the first closed cylinder comprises a fixed volume container having a hollow and piston 19 (corresponding to the claimed movable element) that subdivides the hollow into a first variable -volume portion communicating with the gas inlet port and a second variable volume portion communicating with the port 24. Figure 1 further illustrates that substantially all of the first gas is delivered to the gas utilization application at the second pressure. Figure 2 further illustrates that the first closed cylinder is operable to be filled with the first gas at a first pressure while the second closed cylinder provides gas to the gas utilization application at a second pressure. Alternatively, the second closed cylinder is operable to be refilled with the first gas at a first pressure while the first closed cylinder provides gas to the gas utilizing application at a second pressure, via valve 95.

With regards to claim 46, the term "portable" is a relative term. It is the Office's position that any apparatus is "portable" when there is a device large enough to move it. Therefore, the Perrine et al. apparatus is capable of being moved, and is thus "portable."

With regards to claim 56, there appears to be functional language and process means for operating the apparatus. A recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed

apparatus from a prior art apparatus satisfying the structural limitations of the claims, as is the case here.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrine et al. (mentioned previously) in view of Schuman et al. (5,993,172) and Eggleston (862,867). Perrine et al. teach most of the limitations of the claims. However, they do not explicitly teach interchangeably using a piston, bladder, or diaphragm. Schuman et al. teach an apparatus for pressure processing a pumpable substance that includes a bladder 15 in one embodiment and a piston 46 in another embodiment. Eggleston further teaches using a diaphragm in a pneumatic pumping apparatus. Eggleston teaches that "it will be noted that diaphragms which are substituted for the piston, plunger and cylinders, will cause the same movement to be imparted to the piston stem F, whereby the same result may be accomplished" (page 1, column 2, lines 99-104). Therefore, since these three elements were art-recognized equivalents at the time of the invention in those pumping applications where it is immaterial what causes the gas to be pressurized, one of ordinary skill in the art would have found it obvious to substitute a bladder or diaphragm for the piston of Perrine et al.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-20 have been considered but are not persuasive in view of the new ground(s) of rejection.

8. Applicant's arguments, see Remarks, pages 7-8, filed 7/13/2004, with respect to the rejection(s) of claim(s) 1-33 under 35 U.S.C. 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the newly filed claims 45-56.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

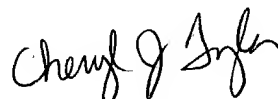
Art Unit: 3746

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Contact Information**

10. Any inquiry concerning this communication should be directed to Cheryl J. Tyler at telephone number 703-306-2772.



Cheryl J. Tyler  
SPE  
Art Unit 3746